

Patent US 200C2
Attorney Docket: 032,290-007
(formerly ARTM 1000-6)

REMARKS

Reconsideration of the rejections set forth in the Office Action mailed February 2, 2004, is respectfully requested. Claims 4-17, 37-45, and 55-68 remain pending in this case.

Art Rejections

Claims 55-60 were rejected under 35 U.S.C. § 102(e) as being alleged anticipated by Corbitt, Jr. et al. (USP 6,214,045). Claims 61-68 were rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Foerster et al. (USP 6,228,055) in view of Corbitt, Jr. et al.

As discussed with Examiner Szmal with respect to related U.S. Application Serial No. 09/900,801 (Our Ref: 032,290-006), applicants respectfully assert that Corbitt is not prior art to the claims pending herein. Specification support for all claims 55-68 can be found in U.S. Application Serial No. 60/090,243, filed June 22, 1998, the benefit of which is claimed in the present application. (See, e.g., page 7, lines 16-21, page 9, lines 11-15, and Figs. 3 and 4). Corbitt is not prior art because Corbitt did not describe, before June 22, 1998, a biopsy site marker comprising polylactic acid and polyglycolic acid or a method of using the same. Therefore, all claim rejections should be withdrawn.

Allowable Subject Matter

Applicants gratefully acknowledge the examiner's indication that claims 4-17 and 37-45 are allowable.

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For all the foregoing reasons, Applicants assert the claims are in condition for allowance. Favorable action on the merits of the claims is therefore earnestly solicited. If any issues remain, please contact Applicants' undersigned representative at (949) 737-2900. The Commissioner is hereby authorized to charge any additional fees that may be required to Deposit Account No. 50-2862.

Respectfully submitted,
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